

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
7-18-16
04:59 PM

Shinil Frame USA, Inc., dba My Moulding,

Complainant,

vs.

Cbeyond Communications, LLC, dba Birch
Communications (U6446C),

Defendant.

C1607014 ☒ (ECP)

Case (C.)

Expedited Complaint Procedure
(Rule 4.5)

PART 1 OF 3 PARTS

COMPLAINANT	DEFENDANT
Shinil Frame USA, Inc., dba My Moulding Attn: Ilhn Sup Shin, CEO 12145 E Mora Drive, Suite 12 Santa Fe Springs CA 90670 T1-562-298-4780 T2-714-396-8232 Email1: ebyun01@gmail.com Email2: master@mymoulding.com	Cbeyond Communications, LLC, dba Birch Communications Attn: Angela Howard, Paralegal, Legal and Regulatory 2323 Grand Blvd., Suite 925 Kansas City MO 64108 T1-816-300-1428 T2-866-502-4724 Email: angela.howard@birch.com

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

(A)

My Moulding

COMPLAINANT(S)

vs.

(B)

Birch

DEFENDANT(S)

(Include Utility "U-Number", if known)

(for Commission use only)

(C)

Have you tried to resolve this matter informally with the Commission's Consumer Affairs staff?

☒ YES

☐ NO

Did you appeal to the Consumer Affairs Manager?

☒ YES

☐ NO

Has staff responded to your complaint?

☒ YES

☐ NO

Do you have money on deposit with the Commission?

☐ YES

☒ NO

Amount \$ _____

Is your service now disconnected?

☒ YES

☐ NO

COMPLAINT

(D)

The complaint of (Provide name, address and phone number for each complainant)

Name of Complainant(s)	Address	Daytime Phone Number
My Moulding	12145 E. Mora Dr. Suite 12	562-298-4780
	Santa Fe Springs, CA 90670	877-374-8800

respectfully shows that:

(E)

Defendant(s) (Provide name, address and phone number for each defendant)

Name of Defendant(s)	Address	Daytime Phone Number
Birch	879 W 190th St. 1200	866-424-5100
	Gardena, CA 90248	

(F)

Explain fully and clearly the details of your complaint. (Attach additional pages if necessary and any supporting documentation)

My Moulding wanted to terminate the contract with Cbeyond (Birch) and sent a proper and timely notice according to the instructions given by employees of Defendant (Birch). Defendant disputed the notice was not on time and charged termination fee of \$ 6453.08 and turned us to collections - now with amount \$ 6,846.10 -

(Please See attached Declarations)

(G) Scoping Memo Information (Rule 4.2(a))

(1) The proposed category for the Complaint is (check one):

☒ adjudicatory (most complaints are adjudicatory unless they challenge the reasonableness of rates)

☐ ratesetting (check this box if your complaint challenges the reasonableness of a rates)

(2) Are hearings needed, (are there facts in dispute)? ☒ YES ☐ NO

(3) ☐ Regular Complaint ☒ Expedited Complaint

(4) The issues to be considered are (Example: The utility should refund the overbilled amount of \$78.00):

My Moulding should be free from any liabilities of illegal termination fees, collection and interest

- (5) The proposed schedule for resolving the complaint within 12 months (if categorized as adjudicatory) or 18 months (if categorized as ratesetting) is as follows:

Prehearing Conference: Approximately 30 to 40 days from the date of filing of the Complaint.

Hearing: Approximately 50 to 70 days from the date of filing of the Complaint.

Prehearing Conference (Example: 6/1/09):	
Hearing (Example: 7/1/09)	8/15/2016

Explain here if you propose a schedule different from the above guidelines.

(H)

Wherefore, complainant(s) request(s) an order: State clearly the exact relief desired. (Attach additional pages if necessary)

(I)

OPTIONAL: I/we would like to receive the answer and other filings of the defendant(s) and information and notices from the Commission by electronic mail (e-mail). My/our e-mail address(es) is/are:

(J)

Dated Santa Fe Springs, California, this 28 day of June, 2016
(City) (date) (month) (year)

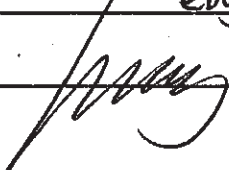
Signature of each complainant

(MUST ALSO SIGN VERIFICATION AND PRIVACY NOTICE)

(K)

REPRESENTATIVE'S INFORMATION:

Provide name, address, telephone number, e-mail address (if consents to notifications by e-mail), and signature of representative, if any.

Name of Representative:	Elizabeth Byun
Address:	12145 Mora Dr. Suite 12, Santa Fe Springs, CA
Telephone Number:	714-3961-8232 90610
E-mail:	ebyun012@gmail.
Signature	

VERIFICATION
(For Individual or Partnerships)

I am (one of) the complainant(s) in the above-entitled matter; the statements in the foregoing document are true of my knowledge, except as to matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

(L)

Executed on 6/28/2016, at Santa Fe Springs, California
(date) (City)

[Signature]
(Complainant Signature)

VERIFICATION
(For a Corporation)

I am an officer of the complaining corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

(M)

Executed on 6/28/2016, at Santa Fe Springs, California
(date) (City)

[Signature]
Signature of Officer

CEO
Title

(N) NUMBER OF COPIES NEEDED FOR FILING:

If you are filing your formal complaint on paper, then submit one (1) original, six (6) copies, plus one (1) copy for each named defendant. For example, if your formal complaint has one defendant, then you must submit a total of eight (8) copies (Rule 4.2(b)).

If you are filing your formal complaint electronically (visit <http://www.cpuc.ca.gov/PUC/efiling> for additional details), then you are not required to mail paper copies.

(O) Mail paper copies to: California Public Utilities Commission
Attn: Docket Office

505 Van Ness Avenue, Room 2001
San Francisco, CA 94102

PRIVACY NOTICE

This message is to inform you that the Docket Office of the California Public Utilities Commission ("CPUC") intends to file the above-referenced Formal Complaint electronically instead of in paper form as it was submitted.

Please Note: Whether or not your Formal Complaint is filed in paper form or electronically, Formal Complaints filed with the CPUC become a public record and may be posted on the CPUC's website. Therefore, any information you provide in the Formal Complaint, including, but not limited to, your name, address, city, state, zip code, telephone number, E-mail address and the facts of your case may be available on-line for later public viewing.

Having been so advised, the Undersigned hereby consents to the filing of the referenced complaint.

Signature

Date

Print your name

DECLARATION OF ILHN SUP SHIN

I, Ihn Sup Shin, declare that I have personal knowledge of the facts contained herein and if called as a witness could competently testify thereto regarding the following:

1. I am the authorized telephone subscriber to: 877-374-8800 (Toll free general line), 877-374-8801 (Toll free Fax), 562-298-4780, 562-298-4657, and communicated with Birch regarding my contract with them. The office is located at 12145 E. Mora Dr. Suite 12, Santa Fe Springs, CA 90670.
2. Shinil Frame USA (My Moulding) was in contract with Cbeyond for three years, from 2010 to 2013. As my contract was ending, I decided to quit our service with them because it was unsatisfactory.
3. On August 14, 2013, I mailed a letter to Cbeyond/Birch to terminate my contract at the end of the contract term of October 12, 2013.
4. On or about August 30, 2013, Cbeyond/Birch then convinced me that they would offer me better service, so I agreed to begin again with them on the basis that I could terminate the service without incurring fees.
5. On or about August 30, 2013, a new verbal contract was formed between Shinil and Cbeyond/Birch. The length of the contract was from about September 2013 through October 2016. I did not sign or agree to the assessment of early termination fees should I terminate my contract before the contract end date.
6. On August 14, 2015, I contacted Cbeyond/Birch and verbally told them I wanted to terminate my contract. They instructed me to send a termination letter on September 1, 2015, so I waited and sent the termination letter via email on that day. My letter instructed Cbeyond/Birch to terminate my service as of September 28, 2015. I also noted that I am not responsible for any penalties according to the contract made on August 28th of 2013.

7. On November 19, 2015, I received a payment notice from Birch. The notice stated that my telephone service bill is overdue and will be disconnected for non-payment, if the amount of \$7153.08 is not paid to them within 72 hours.
8. I contacted the California Public Utilities Commission's Consumer Affairs Branch on or about December 9, 2015 to report this unauthorized charge and my experience with both Cbeyond/Birch. The assigned case number is 375254.
9. On January 14, 2016, Birch responded to my complaint. They disputed my complaint, stating that the early termination fee and charge back are valid, and would not agree to remove the charge. In addition, they stated that my notice of termination was provided to them outside of their 30 day contract period. Furthermore, they stated that the early termination fee was billed out incorrectly and revised the balance due to \$6453.08.
10. Since I did not agree to the imposition of any early termination fee's if I terminated the contract before the contract end date of October 2016; and, since I provided over 30 days of notice to Birch, of my intent to terminate the contract before the contract end date, the assessment of early termination fees by Birch is unauthorized.
11. On or about April 12, 2016, I received a collection notice from Birch in the amount of \$6453.08.
12. If needed, I would be willing to travel to San Francisco, at State expense, to testify in a hearing regarding my experience with Cbeyond/Birch.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on 6/28, 2016, at Santa Fe Springs, California.

Signature



NATIONAL MEDICAL ADMINISTRATORS, INC.
PO Box 924047
Norcross, GA 30010
Toll Free 877-604-1800 Atlanta 678-578-1800 Fax 678-578-1801

May 26, 2016

Reference #: 775142
Shinil Frame Usa Inc
12145 Mora Dr Ste 12
Santa Fe Spgs, CA 90670-6050

REGARDING: BIRCH COMMUNICATIONS
AMOUNT: \$6,846.10
CLIENT ACCOUNT #: 709612

Please be advised that our office has been retained by BIRCH COMMUNICATIONS with respect to an obligation for which you are responsible. It is important that you contact our office immediately to discuss a resolution of your obligation which is now owed to our client.

If you choose not to respond to this notification, we will assign your account to a collector with instructions to collect the balance in full. If you need to speak to a representative, contact us at 877-604-1800 (toll free).

You may make your payment on-line using our secure link: <https://nmasecurepay.callipay.com>.

Please use this reference number to process your payment: 775142

You are hereby given notice of the following information concerning the above referenced debt:

Unless, within 30 days from the receipt of this notice you dispute the validity of the debt, or any portion thereof, the debt will be assumed to be valid by this firm.

If you notify us in writing within said 30 days that the debt, or any portion thereof is disputed, this office will obtain a Verification of the debt or a copy of any Judgment against you, if any, and we will mail a copy of such Verification or Judgment to you.

In addition, upon your written request within said 30 days, this office will provide you with the name and address of the original creditor if the original creditor is different from the current creditor.

This office is attempting to collect the debt on behalf of the creditor and any information obtained will be used for that purpose.

Your right under federal law to request verification of your obligation to our client within said 30 days must be asserted in writing and is not affected by our request that you contact our office by telephone.

IN REGARDS TO THIS MATTER, NATIONAL MEDICAL ADMINISTRATORS, INC. dba NATIONAL ACCOUNT RECOVERIES IS ACTING AS A DEBT COLLECTOR AND THIS IS A COMMUNICATION FROM A DEBT COLLECTOR AS DEFINED BY 15 U.S.C. 1692 (A)(6).



The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

NAR/NAR01 318005730714 **MAILING INSTRUCTIONS:** Enclose bottom portion with your payment or send correspondence to: 578/0000578/0002

P.O. Box 2240
Southgate, MI 48195-0240

For processing of RETURN MAIL ONLY
DO NOT send correspondence to this address

To pay by credit card please complete this section

CHECK CARD TO BE USED FOR PAYMENT	VISA <input type="checkbox"/> 	MASTERCARD <input type="checkbox"/> 	3 digit security code
CARD NUMBER			AMOUNT
SIGNATURE			EXP DATE

Reference #: 775142 Amount Due: \$6,846.10

Regarding: BIRCH COMMUNICATIONS



Shinil Frame Usa Inc
12145 Mora Dr Ste 12
Santa Fe Spgs, CA 90670-6050

1813



National Medical Administrators, Inc.
PO Box 924047
Norcross, GA 30010

NAR01